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Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHRISTOPHER CHAN,

Defendant.

Case No. CR22-00109 DKW

UNITED STATES' RESPONSE TO
DEFENDANT'S MOTION FOR
EXAMINATION AND HEARING
TO DETERMINE DEFENDANT'S
MENTAL COMPETENCY [ECF No.
263]; CERTIFICATE OF SERVICE

UNITED STATES' RESPONSE TO DEFENDANT'S MOTION FOR
EXAMINATION AND HEARING TO DETERMINE DEFENDANT'S
MENTAL COMPETENCY [ECF No. 263]

The United States of America, by and through its undersigned attorney, hereby responds to Defendant Christopher Chan's motion for a competency examination (ECF No. 263). The Government does not object to Defendant's request for a competency evaluation pursuant to 18 U.S.C. § 4241. Specifically, the Government understands Defendant's request to be for a psychiatric or psychological examination and report pursuant to 18 U.S.C. §§ 4241 and 4247, prior to any hearing.

Upon motion of the defendant or Government, a hearing to determine the mental competency of the defendant shall be granted "if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense." 18 U.S.C. § 4241(a).

"Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c)." 18 U.S.C. § 4241(b); *United States v. George*, 85 F.3d 1433, 1437 (9th Cir. 1996) ("even if the existence of reasonable cause requires a competency hearing, the court clearly has discretion to determine when an examination is also necessary").

Here, while Defendant's counsel does not go into the specifics of the recent developments that predicated this motion, the Government does not have a reason to question the representations made by Defendant's counsel in his declaration. Undersigned counsel confirmed with Defendant's counsel that the concerns raised are ones that would only impact Defendant's ability to proceed with sentencing and to litigate an appeal in this case. To that end, with respect to any pretrial litigation and trial, Defendant was competent to proceed and could understand the nature and consequences of the proceedings against him or to assist properly in his defense.

The Government is amenable to seeing whether an examination can be conducted locally pursuant to the procedures and timeline outlined in 18 U.S.C. § 4247(b), and that a report be produced following examination pursuant to 18 U.S.C. § 4247(c). The Government proposes that the parties meet and confer regarding the details relating to the competency examination, to include determining if an agreement can be reached on the examiner. If an agreement can be reached, the parties can submit a stipulation and order to the Court within a reasonable period of time.

The Government requests that the Court set a time for hearing, pursuant to 18 U.S.C. §§ 4241(c) and (d), following issuance of this report.

DATED: July 17, 2025, at Honolulu, Hawaii.

Respectfully Submitted,

KENNETH M. SORENSON
Acting United States Attorney
District of Hawaii

By /s/ Sara D. Ayabe
SARA D. AYABE
REBECCA PERLMUTTER
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on the dates and by the methods of service noted below,
a true and correct copy of the foregoing was served on the following at their last
known addresses:

Served Electronically through CM/ECF

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Attorneys for Defendant
Christopher Chan

DATED: July 17, 2025, at Honolulu, Hawaii.

/s/ Rowena Kang
U.S. Attorney's Office
District of Hawaii